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**IN THE  
COURT OF APPEALS OF INDIANA**

WILLIAM A. MCFARLAND,

Appellant-Defendant,

VS.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 46A03-0604-CR-189

APPEAL FROM THE LAPORTE SUPERIOR COURT  
The Honorable Walter P. Chapala, Judge  
Cause No. 46D01-0412-FD-142

**October 2, 2006**

**MEMORANDUM DECISION - NOT FOR PUBLICATION**

**VAIDIK, Judge**

## **Case Summary**

William A. McFarland appeals his maximum sentence following his plea of guilty to robbery as a Class B felony. Specifically, he contends that his twenty-year sentence is inappropriate in light of the nature of the offense and his character. Considering McFarland's egregious criminal history and the facts of this case, we find that his sentence is not inappropriate and therefore affirm.

## **Facts and Procedural History**

On October 7, 2004, McFarland, a heroin addict, attacked Virginia Zolis in the parking lot of a grocery store, pushing and striking her in order to steal her purse, which contained \$30.00. Zolis, who was eighty-six years old and frail, sustained cuts and bruises during the attack. McFarland confessed to the police.

Thereafter, the State charged McFarland with robbery as a Class B felony. McFarland pled guilty to the charge under an open plea agreement. On March 10, 2005, the trial court conducted a sentencing hearing, at which the court began:

Mr. McFarland, the person that's in Court today being sentenced, is not the same person that committed the crime, and that's problematic. You know, I do believe that you're making an attempt to help yourself in your behavioral problems. But I'm afraid your behavioral problems are beyond your ability to control once you take drugs or alcohol, and I don't know what the answer to that is. All I know is once you come on drugs, you become a tremendous danger to yourself and the community. The system has made many attempts to help you through this. Because of your lengthy criminal record, I see a lot of probation, a lot of programs designed to help you address your problems, but evidently, the system isn't geared to do that. We don't have programs that can help you, evidently, because they have not been successful. I have no choice but to protect the community. You're a danger to the community, not in your present state, that's for sure, but when you become involved with drugs and alcohol, you're a real predator and you're a real threat.

Tr. p. 28. The trial court then identified two aggravators, McFarland's lengthy criminal history and the elderly age of the victim. As mitigators, the trial court identified McFarland's confession to the police and the fact that the person standing before the court that day was "different" from the person who committed the crime. Appellant's App. p. 32. The court then sentenced McFarland to the maximum term of twenty years.<sup>1</sup> McFarland now appeals his sentence.

### **Discussion and Decision**

McFarland appeals his sentence raising a single issue, that is, whether his sentence is inappropriate in light of the nature of the offense and his character. McFarland does not challenge the trial court's identification or weighing of the aggravators and mitigators. Indiana Rule of Appellate Procedure 7(B) states: "The Court may revise a sentence authorized by statute if, after due consideration of the trial court's decision, the Court finds that the sentence is inappropriate in light of the nature of the offense and the character of the offender." "Although appellate review of sentences must give due consideration to the trial court's sentence because of the special expertise of the trial bench in making sentencing decisions, Appellate Rule 7(B) is an authorization to revise sentences when certain broad conditions are satisfied." *Purvis v. State*, 829 N.E.2d 572, 587 (Ind. Ct. App. 2005) (internal citations omitted), *trans. denied, cert. denied*, 126 S. Ct. 1580 (2006). After due consideration of the trial court's decision, we cannot say that McFarland's sentence is inappropriate.

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<sup>1</sup> We note that McFarland was sentenced under the old, presumptive sentencing scheme.

Turning first to the nature of the offense, McFarland attacked an eighty-six-year-old, frail lady in a grocery store parking lot and took her purse, which contained a mere \$30.00. Zolis was injured during the attack and has lived in fear ever since.

As for McFarland's character, McFarland has a lengthy criminal history beginning with juvenile adjudications for theft and dealing in a substance representing a controlled substance. McFarland received probation for both of these offenses. McFarland then received a juvenile adjudication for burglary and was placed in a juvenile correctional center. McFarland ran away from that facility and was placed at the Indiana Boys' School, from which he was paroled. In January 1991, less than a year after his parole, McFarland was waived from juvenile court and charged with two counts of burglary. McFarland pled guilty to one count of Class C felony burglary and was placed on probation until 1997. In 1993, McFarland was charged with two counts of criminal deviate conduct but was found guilty of the lesser-included offense of sexual battery as a Class D felony. The trial court sentenced him to three years with one year suspended. In December 1996, McFarland pled guilty to resisting law enforcement as a Class A misdemeanor and was sentenced to 365 days with 90 days suspended, which he served on work release. In May 2000, McFarland pled guilty to battery as a Class B misdemeanor and was sentenced to 180 days, all suspended to probation. Less than a year after being released from probation, McFarland was charged with disorderly conduct and criminal mischief, both Class B misdemeanors. McFarland pled guilty to both offenses, and the trial court sentenced him to 180 days, 145 of which were suspended to probation. The trial court also ordered McFarland to serve five weekends on Road Crew. McFarland

failed to complete Road Crew. The trial court cited him for this and two instances of failure to appear. In May 2003, McFarland pled guilty to theft as a Class D felony, and the trial court sentenced him to one year, which was suspended to probation. The court also cited McFarland for failure to appear. In September 2004, McFarland pled guilty in a Michigan court to retail fraud, third degree, for which he was fined. The instant offense occurred about three weeks after disposition in the retail fraud case.

It is readily apparent that McFarland, who was thirty-one years old at the time of the instant offense, began his life of crime as a juvenile and has continued on this path despite numerous rehabilitative attempts by the State. In sentencing McFarland for his previous crimes, courts have shown him leniency by placing him on probation, work release, and road crew and have tried to help him become a law-abiding citizen. However, McFarland has responded to the courts' leniency by consistently returning to a life of crime. This time is no different. Although McFarland confessed to the crime and then pled guilty and despite the fact that he has four children whom he has supported, McFarland's continual return to a life of crime after various rehabilitative efforts outweighs those concerns. Given McFarland's egregious criminal history and the facts of this case—attacking an eight-six-year-old lady for \$30.00 to buy drugs—we decline to exercise our sentencing authority. We therefore affirm McFarland's maximum sentence for Class B felony robbery.

Affirmed.

BAKER, J., and CRONE, J., concur.